

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	Criminal No: CR 06 533 SI
	)	
Plaintiff,	)	
	)	
v.	)	STIPULATION AND ORDER FOR
	)	<u>EXAMINATION UNDER 18 U.S.C. § 4241</u>
THOMAS F. KELLY,	)	
	)	
Defendant.	)	
	)	

Since his entry of plea, and as set forth in prior filings by the parties, Thomas Kelly has suffered significant medical issues. Under the circumstances, the parties believe it prudent for Mr. Kelly to be evaluated under 18 U.S.C. § 4241(b) to determine whether he is competent to continue with these criminal proceedings.

Based on defense counsel's discussions with Mr. Kelly's physicians, the parties agree, and the Court accepts, that there is reasonable cause to believe that Kelly "may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense." 18 U.S.C. § 4241(a). Accordingly, the Court orders a psychiatric examination to be conducted pursuant to 18 U.S.C. § 4241(b).

The examination is to be conducted locally at the direction, and under the supervision, of

United States Probation and/or United States Pretrial Services, pursuant to the provisions of 18 U.S.C. § 4247(b) and (c). The psychiatric report is to be filed with the Court, and copies are to be provided to defense counsel and counsel for the government. 18 U.S.C. § 4247(c).

The psychiatric report shall include the following information, which is required by 18 U.S.C. § 4247(c)(1-4):

(1) Mr. Kelly's history and present symptoms;

(2) A description of the psychiatric, psychological, and medical tests that were employed, and their results;

(3) The examiner's findings; and

(4) The examiner's opinions as to diagnosis, prognosis, and whether Mr. Kelly's "is suffering from a mental disease or defect rendering him incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense." 18 U.S.C. § 4247(c)(4)(A).

After their receipt of the results of the examination, the parties will advise the court about whether a competency hearing needs to be conducted pursuant to 18 U.S.C. § 4241(a). The parties anticipate that they well may agree about the appropriate course of action after they review the report regarding the psychiatric evaluation. The matter is set for status on July 11, 2008, which should be enough time for the evaluation.

IT IS SO ORDERED.

DATED:



SUSAN ILLSTON  
United States District Judge

STIPULATED:

DATED: March 21, 2008

/s Stephen G. Frye  
STEPHEN G. FRYE  
Attorney for Defendant

DATED: March 21, 2008

/s Laurel Beeler  
LAUREL BEELER  
Assistant United States Attorney